

---

2000s

The Gavel

---

3-2004

2004 Vol. 52 No. 5

Cleveland-Marshall College of Law

Follow this and additional works at: [https://engagedscholarship.csuohio.edu/lawpublications\\_gavel2000s](https://engagedscholarship.csuohio.edu/lawpublications_gavel2000s)

**How does access to this work benefit you? Let us know!**

---

### Recommended Citation

Cleveland-Marshall College of Law, "2004 Vol. 52 No. 5" (2004). 2000s. 20.  
[https://engagedscholarship.csuohio.edu/lawpublications\\_gavel2000s/20](https://engagedscholarship.csuohio.edu/lawpublications_gavel2000s/20)

This Book is brought to you for free and open access by the The Gavel at EngagedScholarship@CSU. It has been accepted for inclusion in 2000s by an authorized administrator of EngagedScholarship@CSU. For more information, please contact [library.es@csuohio.edu](mailto:library.es@csuohio.edu).

## One Tortious Spring Break



Do law students have to forego their bacchanalian MTV spring break just to keep up in school? The Gavel's anonymous 1L suggests that the answer is yes.

OPINION, PAGE 7

## "Write" of Bar Passage

C-M alum, Vincent Lombardo '81, suggests bar preparation begins before BarBri and DVD BAR Review get their hands on you. Lombardo outlines his five-step plan.

CAREER, PAGE 4



www.pepjobs.com

## Evolving Teaching Methods

The Ohio School Board has proposed a plan allowing teachers to supplement scientific theories of evolution with creationism. Is Ohio on the right track?

OPINION, PAGE 7



www.mypagedirect.ca.com



# THE GAVEL

VOLUME 52, ISSUE 5 MARCH 2004

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

## C-M tuition set to spike

By Amanda Paar

LAYOUT EDITOR

In what is being called yet another attempt to battle state budget cuts, the Board of Trustees Financial Affairs Committee has proposed a 12 percent hike in tuition at C-M. The increase would leave C-M full-time students footing a bill of \$13,052 as opposed to the current amount of \$11,648.

Undergraduate tuition at Cleveland State University will also see an increase, but a state imposed 9.9 percent cap on state undergrad tuition has shifted a heavier burden to C-M.

Despite the fact that a greater impact of the increase will be felt by C-M students, the majority of funds generated by the hike, roughly 6.6 percent, would be used to fund general operating expenses at CSU. In addition, the overall jump will create a four percent surplus, which SBA President Sasha Markovic said is extremely questionable in a time of economic down turn. The Board is set to vote on the increase in April.



Jason Smith-Gavel

### An insider's guide to sports and law

Lal Heneghan and Greg Kirstein, general counsel for the NFL's Cleveland Browns and the NHL's Columbus Blue Jackets, participated in "Pro-Sports and the Law: A Discussion on Being Gen-

eral Counsel for Professional Sports Teams."

Both discussed the responsibilities of their general counsel positions as well as tips on entering sports law.

Turn to page 2 for more.

## C-M alum questions silence in wake of substantial donation

By Mike Luby

STAFF WRITER

In June of 2002, Chairman and Chief Executive Officer of the Herritage Development Co., Bertram (Bart) Wolstein '53, donated 100,000 dollars to Cleveland-Marshall College of Law. According to Wolstein, he was informed the money would be used to fund a development study. C-M Dean Steven Steinglass said approximately 80,000 dollars was used to fund the development of renovation plans for C-M and the rest went to scholarships for C-M students.

According to Wolstein, he has not heard from the school since he donated the money nearly two years ago. He said the school has made no effort to contact him or make him aware of any plans of potential renovations. Further, he feels he should have been contacted about the results and

potentially more money might have been forthcoming to fund something else.

According to documents produced by *Braun & Steidl Architects*, the executive summary of the renovation project was based around a new facility vision. This vision "commits itself to continue providing broad access to a high quality legal education while strengthening its reputation and impact regionally and nationally." The main objective of the renovation project is to continue the development of the East 17<sup>th</sup>/18<sup>th</sup> Street project that began with the law library in 1997. The ultimate goal is to eventually implement a plan that would make the exterior of all the buildings in the project look fluid.

The process of the plan began with input from four separate groups: students, administration, See **RENOVATIONS**, page 2



## Comparison shopping...

### 2003-2004 Law School Tuitions \*

C-M	\$11,648
Akron	\$11,076
Ohio State	\$13,095
Toledo	\$11,612
CWRU	\$26,900

\* Information obtained from schools' websites

## CSU clarifies email privacy policy

By Eric Doeh

STAFF WRITER

CSU's computer security policy allows university personnel to read or otherwise access faculty and student email or faculty computer files, either in the normal operation and maintenance of the university's computer facilities or when staff of the information services and technology department inadvertently or inevitably open or otherwise briefly access an email message or file.

According to Fabian Ferreri, security administrator of the information services and technology department, "unless the email were sent and stored using encryption, we, or any other email or computer administrator have the ability to look at email content. It's the nature of the job." Ferreri specified however that his department looks at email content only when asked to do so by the

email owner to fix a problem or when the department or university is subpoenaed to do so.

Under CSU's security policy, access by university personnel of faculty and student email requires the permission of either the sender or the recipient of the message. The policy states, however, that all other employees, including student workers and faculty administrators are subject to access by those to whom they report.

David Genzen, assistant director for academic technology said that the law school follows CSU's computer security policy. He said, "we neither read, nor filter email content, and we take every step to ensure electronic privacy."

Ferreri said he agrees with Genzen. "As our policy is written, we cannot and do not filter the contents of email," said Ferreri. Ferreri said his department does filter email attachments for viruses.

However, Ferreri acknowledged that email is not the most secure means of communication. He said that sending an email is analogous to mailing a post card.

Prof. Kevin O'Neill said, "we shouldn't have any illusions about the privacy of email communications. Typing up and mailing a letter the old-fashioned way is a much more private means of communication."

When CSU first adopted its computer security policy, the policy was primarily based on the ideas of Charles Cresson Wood, author and independent information security consultant. Cresson's book, *Information Security Made Easy*, was the foundation of CSU's computer security policy. The policy was later revised, and in February of 2002, the new policy was implemented.

While CSU's security policy See **PRIVACY**, page 3



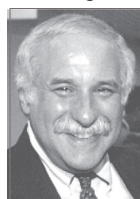
## Bar passage begins with individual strategy

By Steven H. Steinglass

In the February issue of the *Gavel*, I wrote about the committee chaired by Prof. Patricia Falk that developed a plan to assure our students' success on the Ohio Bar. In this column, I want to discuss what you can do on your own to prepare for success.

First, I will repeat what I have said many times: you would not be here if we did not have complete confidence in your abilities to learn the law and pass the bar on your first opportunity.

C-M has implemented a number of programs that are designed to improve student performance on the bar. These



### The Dean's Column

programs are having an impact. The 2003 graduating class had a 74 percent pass rate, the highest of any graduating class since the pass-fail standard was increased in 1997, when the graduating class had a 64 percent pass rate. Moreover, the first-time pass rate on the July 2003 bar for full-time students entering in 2000 was 78 percent.

The most significant thing we learned is that the best predictor of success on the Bar Exam is success in law school. For the last seven graduating classes, the pass rate of students who graduated in the top half of their class was 91 percent, while the rate of those in the bottom quarter of their class was less than 35 percent.

Our review of bar performance also reveals that in the last few years, part-time students have not done as well as full-time students. For instance, on the July 2002 exam, 83 percent of our full-time students passed, while only 65 percent of our part-time students passed. Since part-time and full-time students are admitted based on identical criteria, we believe the disparity is best explained by the different obligations these groups face.

My own personal observation is that to pass the Bar Exam you must develop your own individual Bar Exam plan; one in which you identify the courses you need to take and give the courses the maximum effort they require throughout your law school career. This plan must also include a strategy for how you will study and a time-allocation plan for the two months prior to the bar exam.

The commercial bar review courses are necessary, but not sufficient. It is also necessary to arrange your work and vacation schedules so that, to the extent possible, the Bar Exam will be your number one priority during that two-month period.

And my best advice to you who are about to graduate and face the ordeal in Columbus? Take time off from your job, say goodbye to your friends and family for a while, study, study, study and practice, practice, practice.

## Sports lawyers reveal their game plan

By Jason Smith

MANAGING EDITOR

While a position as general counsel for a professional sports club may not be as exciting as some may think, many law students are interested in obtaining such a position. On March 25, 2004, Lal Heneghan, general counsel for the National Football League's Cleveland Browns, and Greg Kirstein, general counsel for the National Hockey League's Columbus Blue Jackets, visited C-M in a presentation entitled "Pro-Sports and the Law: A Discussion on Being General Counsel for Professional Sports Teams," presented by the Entertainment and Sports Law Association.

Both Heneghan and Kirstein agreed the position of general counsel for any sports team is not as glamorous as many people believe.

While many people think the perks of this job include commingling with the players, Kirstein said that there is a "thick line between the players and management" and this interaction rarely occurs.

Rather, being general counsel for a sports team is not much different from being general counsel at any major corporation, said Kirstein. The majority of time, approximately 80 percent, according to Kirstein, is spent on commercial and contract cases.

This work includes dealing with television, radio, food and beverage, sponsor, ticket holder, employee and lease contracts. Kirstein said that this work is oftentimes tedious and includes "pouring through fine print and the contract details." According to Kirstein, the remaining 20 percent of work is split between trademark and copyright issues, immigration law and business transactions.

While the position of general counsel

rarely includes player contact, Heneghan does encounter this contact as Vice President of Football Operations for the Cleveland Browns. In this position, Heneghan is responsible for negotiating all player contracts on the team's behalf. While Heneghan stressed that he in no way picks or coaches the players, he is responsible for developing a player budget, negotiating contracts with free-agents and complying with the NFL's salary cap rules.

There are several actions that law students can take to help obtain a position within the sports law field. Both Heneghan and Kirstein agreed that the most important thing anyone can do is to become a good lawyer first. One way to become a good lawyer is to get training at a large firm, said Kirstein. The variety of

like the New York Yankees, jobs in smaller markets act as building blocks to an eventual position with a major team, said Kirstein.

Per Heneghan, when applying for your first job, think more broadly than pro sports. Several options to "get your feet wet in the sports law field" include the Arena Football League, minor league baseball, college athletics, tennis, golf or World Wrestling Entertainment, said Heneghan and Kirstein.

Furthermore, to gain a sports law position, one must be willing to remain goal should be to "be a sports lawyer, not a lawyer for a particular team," said Kirstein.

While obtaining a job in a specific market may be difficult, it is easier to obtain a job when you are able and willing to "pack up and move."

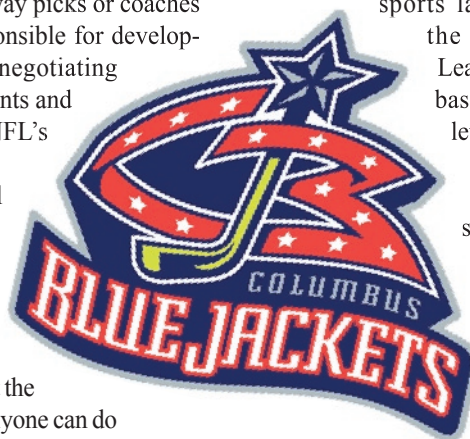
Another way to get your feet wet in the sports law field is by volunteering. "If you want it bad enough, make a few calls, offer your services and stress that you don't want any of their money," said Kirstein, who volunteered with the NCAA and NHL to obtain a "calling card" within the industry.

There are also several actions to avoid when attempting to land a position with a sports team. Prospective employees should avoid selling themselves as a huge fan of the interviewing team.

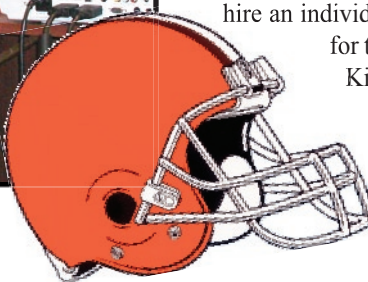
While knowledge of the particular sport and the team is important, teams will not hire an individual based on their love for the particular team, said Kirstein.

Also, when interviewing for any position, the applicant should avoid being a "jock-sniff," said Kirstein. "If an individual asks for any free merchandise or tickets throughout the interview process, they are immediately crossed off the list."

Additionally, if one is lucky enough to obtain a job with a team, "it is important to realize that when part of management, it is inappropriate to constantly hang around with the players," said Kirstein.



Jason Smith-Gavel



work, ranging from contract disputes to labor relations, obtained at a large firm is invaluable, said Heneghan. Both Heneghan and Kirstein gained this experience at the law firms of Akin, Gump, Strauss, Hauer, & Feld (Washington D.C.) and Vorys, Sater, Seymour, and Pease (Columbus), respectively.

Remaining flexible is another key aspect in trying to obtain a sports law job. While it is nearly impossible to start out with a team

## RENOVATIONS

Continued from page 1-- faculty and staff. Next, an assessment of the existing systems, materials and future needs of the school was conducted for the purpose of revitalizing the now 25 year-old law school building.

According to Steinglass, there are several areas of most concern. These concerns include replacing and/or fixing all of the old systems, such as air conditioning, heating and ventila-

tion ducts.

The next area of concern is to improve various offices which are underutilized throughout the building, such as the clinical area, and upgrade the entire building with technology equivalent to today's standards.

Law school renovation is nothing new to C-M or any other American Bar Association accredited school. The library, in part, was built after a warning by the ABA that C-M would lose accreditation without a new facility.

In 2002, Vanderbilt Law School unveiled a 23.5 million dollar renovation of its entire school. Some of the new additions

included a 220-seat auditorium, a trial room for moot court practice and new clinic and career planning offices.

In 1996, the University of Wisconsin Law School completed a renovation project with nearly 50,000 square feet of space added. The main focal point includes a glass enclosed, four-story atrium, which now acts as the main meeting point for students.

The most critical deterrent to any further progress of the law building's renovation is based on financial concerns. Several different budgets have been developed based on 2002 figures. A full and complete renovation, at the time,

was estimated at close to 18 million dollars.

Steinglass said the project would have to be funded by one or a combination of sources. These sources include a request through the state capital budget, private donations, such as the donation by Wolstein, and fundraising. An initial timeframe for the project has been projected at two to two and half years with up to eighteen months focused on actual construction.

For now, the renovation of the law building is only in its planning stages. Any possible construction is not likely to begin anytime soon.



# U.S. State Department warns students traveling abroad to beware

## KEEPING AN EYE ON SUMMER TRAVEL SAFETY

According to the U.S. Department of State, each year, more than 2,500 American citizens are arrested abroad—about half on narcotics charges, including possession of very small amounts of illegal substances. A drug that is legal in one country may not be legal in a neighboring nation. Besides drugs, alcohol can also cause trouble for U.S. citizens traveling abroad.

Students have been arrested for being intoxicated in public areas and for drunk driving. Some Americans go abroad assuming that local authorities will overlook such conduct. Many believe they are immune from prosecution in foreign countries because they are American citizens. The truth is that Americans are expected to obey these laws of the countries they visit, and those who break laws sometimes face severe penalties, including prison sentences.

Disorderly and reckless behavior is also to be avoided. Being arrested is not the only misfortune that can occur on a foreign vacation. Americans have suffered injury or even death from automobile accidents, drowning and falls, in addition to other mishaps.

Other Americans have been sexually assaulted or robbed be-

cause they have found themselves in unfamiliar locales or are incapable of exercising prudent judgment while under the influence of



drugs or alcohol.

Because standards of security, safety and supervision are not the same in many countries as they are in the U.S., many have died after falls from balconies, after falls into open ditches, by drowning in the ocean as well as in hotel pools and in water sport mishaps. Unlicensed operators have been linked to assaults, and a number of Americans have been killed or injured by the improper use of jet-skis or other personal watercraft.

The Department of State warns that Americans traveling abroad should remember that reckless behavior while in another country can do more than ruin

their vacation; it can land them in a foreign jail or cause them to suffer physical harm.



## U.S. NEWS AND WORLD REPORT

The annual law school rankings will be released on April 2, 2004. This list ranks law schools in one of three categories: top 100, tier 3 and tier 4. Last year, C-M was ranked in

the fourth tier.

## MOOT COURT NEWS

They've done it again. C-M's Moot Court Team members Christos Georgalis, 3L, Nick DeSantis, 2L, and James Martinez, 3L, recently placed second in the nation at Harvard University's Animal Rights Moot Court Competition in Cambridge, MA. The team also received the award for best overall brief. The team's only loss came to the University of South Texas who won the tournament.

In addition, the team of Amy Scheurman, 2L, Terry Billups, 2L, and Nora Graham, 2L, competed at American Bar Association's Tournament in Atlanta, GA. The team finished in the top four teams in the region advancing to the ABA nationals tournament which begins Thurs., April 1 in Chicago, IL.

In addition to their advancement to nationals, the team's brief scored as the fifth best in the region. Individually, Billups received an award for fifth best oral advocate in the region.



## SAFETY ADVISORY

A law student went to the law library desk on the evening of Thursday, March 25 in order to call the police. He said he was approached by a man in the Law School atrium and asked if he could have a ride to the social security office so that he could pick up his



## Notes in Brief

last name Patterson and some sort of paper from the Social Security office.

The law student believed the man was attempting to carjack him. He had been involved in an incident like this before and reported it to the police and it turned out to be a carjacker. The police responded and were looking for a stocky African-American male, about 5'7", wearing, non-descript dark colored clothing and a Cleveland Indians cap.

## COMMUNITY ADVOCACY CLINIC

There will be two open meetings to learn more about the C-M's Community Advocacy Clinic on Tuesday, April 6, from noon to 1:00 p.m. and from 4:30 to 5:30 pm in Room 208.

The Community Advocacy Clinic works with real clients on real cases that seek

students in the top 25 percent of their class.

This position would entail your meeting with a group of approximately 15-20 first-year students on a weekly basis to help them with their analytical skills and essay writing skills.

In addition to meeting with the students in a group, you will also attend, on a regular basis, the class sessions of one of their professors.

This position provides you with a partial tuition waiver of 3,500 dollars per semester and requires you to work 10 service hours per week. If you are interested in applying for this position, you may either drop off your resume at the Office of Student Affairs, LB 144, which is located in the rear of the Student Services Center or you

may e-mail it to Dean Williams at [gary.williams@law.csuohio.edu](mailto:gary.williams@law.csuohio.edu). Should you have any questions or concerns,



Professor Frederic White Jr.

please contact Dean Williams directly.

## FACULTY AND STAFF AWARDS

Two law school colleagues have been honored by the Black Faculty and Staff Organization.

Prof. Frederic White received the Distinguished Black Faculty Award and the law school's Faculty and Staff Office Coordinator, Laverne Carter, received the Distinguished Black Professional Staff Award. Both will receive their award on April 17 during the annual CSU Curtis Wilson Scholarship Dinner.

# PRIVACY: Concerns of e-mail filtration put to rest

continued from page 1-- does not call for the monitoring of email usage, the policy does say that the normal operation and maintenance of the university computer resources, such as creating disc space, sometimes require that authorized personnel gain access to email and computer files to protect the security and integrity of the university.

CSU also adopted another computer security policy called, "Interim Policy on Responsible Use of University Computing Resources." This policy was implemented in July of 1999.

According to Mike Droney, vice-president and chief information services and technology, the interim policy is separate from the security policy. Droney said that these are two separate documents; one does not replace the other. However, Prof. Thomas Buckley, a former member of the Faculty Senate Committee, said that the computer security policy was designed to replace the interim policy.

Buckley said that it was his understanding that the two documents did not co-exist. Buckley said that many of the provisions of

the interim policy were inappropriate for a university.

The interim policy applies to all users of university computing resources, whether affiliated with the university or not. Droney said that users should be aware that their use of university computing resources is not completely private. The interim policy states that CSU may specifically monitor the activity and accounts of individual users of university computing resources, without notice when it appears necessary to do so, to protect the integrity, security or functionality of the university.

Buckley chaired the subcommittee that was appointed by the faculty senate to develop CSU's computer security policy. Buckley said that the subcommittee was committed to ensuring that the university would not be snooping and reading the email of faculty and students absent extraordinary circumstances.

Buckley did acknowledge that it was an oversight by the subcommittee to not have taken out the provision of the security policy which says that the email and computer files of faculty administrators are subject to ac-

cess to those to whom they report. Buckley said that he recommended that two separate accounts be given to faculty administrators to adhere to their dual roles. Nevertheless, Buckley agrees that email is not a secured

files of students, staff and faculty, being electronic extensions of their personal work areas, may not be inspected or tampered with without the permission of the owner, except for purposes relevant to the admin-

*CSU cannot and does not filter the contents of email.*



istration of the computer system.

At the University of Michigan, email and computer files are considered private to the fullest extent permitted by law.

However, in the normal course of business, by virtue of their positions, university

means of communication.

Currently, at Ohio State University, the policy is that the computers and computer

personnel may have special access privileges to email and computer files.



## Work...only one of many 1L options

By Karin Mika

LEGAL WRITING PROFESSOR

*Q: Is it better to work in the summer or to take extra classes?*

A: There are a lot of variables that go into making a decision regarding summer activities. Working in a law office provides experience that may be beneficial in eventually securing permanent employment. It may also provide experience and knowledge that enable a student to perform better in law school. It will also, of course, provide a much needed salary.

However, other options do need to be carefully considered. Graduate school is likely the last time in life a person will have the opportunity to do such things as study abroad, take a long trip or even do something that the student wants to do as opposed to being obligated to do.

In terms of taking extra classes, it would obviously be beneficial to take a class or two in order to minimize the pressure of trying to fit requirements into the remaining years of

### Legal Writing

law school. Many students endeavor to work during the summer while still fitting in a class or two. That would be an ideal compromise for the student who would like to work while still finishing off credits during the summer.

For my part, I wish I had taken advantage of other opportunities (such as studying abroad) when I was younger. It seemed as though I was always working while trying to fit in a few more credits.

I know there's a lot of pressure to get work experience, but in my own case, the work experience I did get played little or no role in what I actually wound up doing for a living. Now I'm left hoping my children like me well enough to invite me on their school field trips!

In a particularly memorable experience, I had a student a few years back who agonized over a decision about whether to study abroad after her first year or attempt to find work in the legal field. Ultimately, she decided to study abroad and had the best summer of her life. When she returned, she went on to become the editor of the law review and, after graduation, got the job of her dreams working for a judge.

Too often in life, especially these days, we are called upon to have some precognition about how today's decisions will affect what happens to us 20 years from now. And, unfortunately, sometimes a decision today will affect what happens to us 20 years from now; however, as is usually the case, balance is the key. As part of that balance, sometimes we have to consider what makes us happiest or most comfortable today.

## Bar battle begins with "write" approach

### *CMLAA vice president urges that bar prep begin before graduation*

C-M students obsess about passing the bar, and rightly so. For several years, C-M has ranked seventh in bar passage rates among Ohio's nine law schools, and CSU is breathing heavily down C-M's neck to rectify this and establish parity with the two Ohio public law schools most similar to C-M, the University of Akron and the University of Toledo.

Based on my experience with my student mentees, as well as conversations with other students, professors and administrators over

Many students take courses tested on the bar, even those not required for graduation. But before you take a bar course, find out the following:

First, can the professor teach, i.e., can he/she effectively communicate? Second, does the professor "teach to the test", i.e., does he/she cover the areas that are tested on the bar and test those areas in the same manner as the bar, with short essays and multiple-choice questions?

If the professor does not "teach to the test" or is simply not a good teacher, then why take the course? You will not learn anything, and will instead teach yourself the course with a study aid.

#### 3. Learn to write like a lawyer.

I believe students flunk the bar not because they do not know the law but because they do not apply the law. Most students studying

for the bar obsess over the Multistate Bar Exam (MBE), yet most students who flunk the bar do poorly on the essays and the Multistate Performance Test (MPT), which constitute 60 percent of the grade.

Students who flunk the bar have the same problem as students who get "C's" or worse at C-M: they are utilizing the "I" (Issue), "R" (Rule) and "C" (Conclusion) of "IRAC," but not the "A" (Application). Knowledge of the law is only half of the battle in law school, the bar and in practice; legal analysis is the other half and the most important part.

The solution? Take all the legal writing that you can and then some. Take upper level legal writing courses; try out for Moot Court and/or Law Review and the Journal of Law and Health; take an externship; take a legal clinic; get a part-time legal job.

I advise my students to opt for legal writing over taking a

bar course if they have a conflict. You can learn the substantive law in a bar review course, but legal analysis and writing skills take practice.

You do not go to law school to learn the law, you go to law school to learn how to think like a lawyer. The bar is intended to test that skill. Writing is a form of thinking. The more you write, the more you think; the more clearly you write, the more clearly you think. If you can think clearly and express yourself clearly, you will do very well at C-M, pass the bar on one attempt and be a successful practitioner.

#### 4. Study like crazy for six weeks.

You must take at least six weeks off to study for the bar, and you must study like crazy during those six weeks.

Many students say that they cannot afford to take six weeks off. You must plan for this as a first year student. Save your money, take a bar loan, borrow the money from a relative – do whatever you need to take the six weeks off.

For the six weeks, you cannot be distracted; you must focus exclusively on the bar. Say goodbye to your family and friends and resign yourself to being an absent spouse, parent, child or friend for six weeks. For six weeks, it is all about you. Live with any guilt. You will be a better spouse, parent, child or friend despite any temporary inconvenience or discomfort you may cause anyone.

#### 5. Failure is not an option.

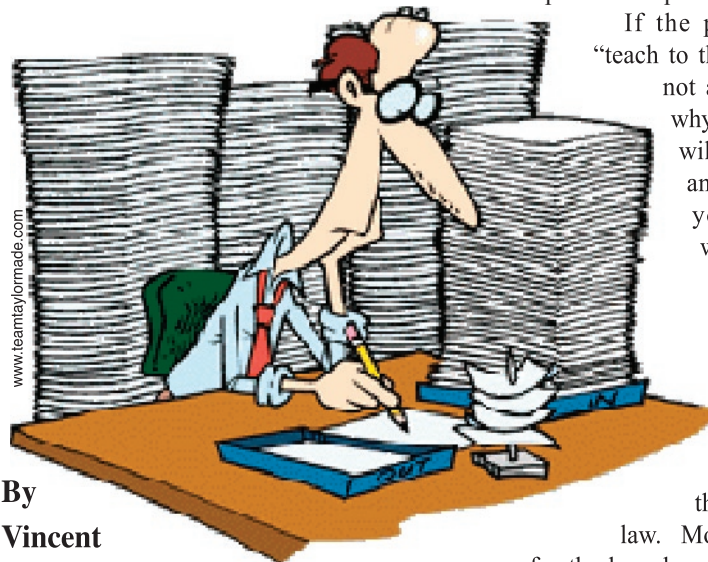
As hard as it is to believe, some students consider taking the bar for the first time only a dry run, a great learning experience. If they fail it the first time, they will simply take it again. Thus, they do not study hard or focus that much – and, of course, they fail it the first time. Why would anyone want to take the bar more than once? Why would anyone want to take the time and spend the money to go through this horrible experience twice or more?

Besides, the failure rate for repeaters is even higher than first time takers, so why stack the odds against yourself? If you take the bar planning to flunk, then you will flunk. But if you take it intending to pass, then you will pass.

Besides, the failure rate for repeaters is even higher than first time takers, so why stack the odds against yourself?

If you take the bar planning to flunk, then you will flunk. But if you take it intending to pass, then you will pass.

Vincent Lombardo '81 is the Vice-President of the C-M Alumni Association.



By  
Vincent  
Lombardo '81

the years, here are five tips on how to pass the bar on the first try.

#### 1. Take law school seriously.

Students who get good grades at C-M are more likely to pass the bar on the first try. Over 90 percent of C-M students with a GPA of 3.0 or above pass the bar on the first try, while less than half of those with a GPA under 3.0 do. This should come as no surprise. The bar is nothing more than a big law school exam. If you developed good study habits in law school and, have done well on law school exams for three to four years, you will pass the bar.

The key to good grades is simple: find out what the professor wants and give it to him or her. You should meet with the professor early in the semester and ask intelligent questions, even if you think that you are on the right track. Do not wait until the end of the semester to reach out for help. By that time, it may be too late.

Many students never develop good study habits and are content with receiving a "C," but "C" students have a harder time passing the bar. Law school is very expensive and very difficult, but I am always amazed at the number of students who do not take it seriously. Take law school seriously and you will pass the bar.

#### 2. Take the professor, not the course.

After you complete your first year of law school, you can choose your professors.

### How to pass the bar on the first try:

1. Take law school seriously.
2. Take the professor, not the course.
3. Learn to write like a lawyer.
4. Study like crazy for six weeks.
5. Failure is not an option.



www.t\_stacks3.com



# FIP survey garners mixed results in tight market

By Maggie Fishell

STAFF WRITER

The Fall Interview Program (FIP), organized by the office of career planning, provides students with the opportunity to bid on jobs and meet with prospective employers.

This past fall, approximately 90 employers participated in the annual event. According to eAttorney, 174 students participated in the 2003 FIP. Students placed 1,783 bids and 618 first interviews were given. The number of students who actually participated in the job search is augmented by students who sent their resumes directly to prospective employers.

The reported results of the 2003 FIP are as follows: three 1L's received offers and all three accepted; 52 2L's received offers and 30 accepted; 37 3L's received offers and 30 accepted. Those students offered interviews and positions varied widely by the students' class ranks. In both the 2L and 3L category, students in the top five percent through those individuals in the top 75th percent received interviews.

According to Jayne Geneva, director of the office of career planning, the only way of knowing how many second interviews and job offers were extended is through a survey the OCP sends to students. This year, less than 50 surveys were returned. Using the information available, Geneva said job offers to students were down only slightly from last year.

However, the comparison of job offers between the two years may be an inadequate gauge of the health of the job market. For example, the number of offers

obtained by 2L's during the 2003 and 2002 FIP's were identical, at 30 offers each year.

However, although the number of offers made were identical, more than double the number of firms/entities interviewed during the most recent 2003 FIP than during the 2002 FIP.

Furthermore, although a more fair comparison would be comparing offers from similar firms on a year-to-year basis, such a comparison is not possible. "We do not put [individual firm offer] information

firms, the interviewers indicated that the down economy has limited the number of spots available," said Jason Smith, 2L. In fact, many firms' representatives indicated that the number of summer associate positions available for this summer are down approximately 50 percent from the previous two years, said Smith.

Another indication of the weak economy is recent cutbacks in the current workforce at large Cleveland firms. Benesch, Friedlander, Coplan, and Aronoff L.L.P., a top-ten Cleveland law firm in terms of size, recently cut 42 jobs, including 13 attorneys and three partners, represented a 13 percent reduction in workforce. The cuts were at-

automobile liability policies even if the injured parties were outside of the scope of employment and not driving a company vehicle.

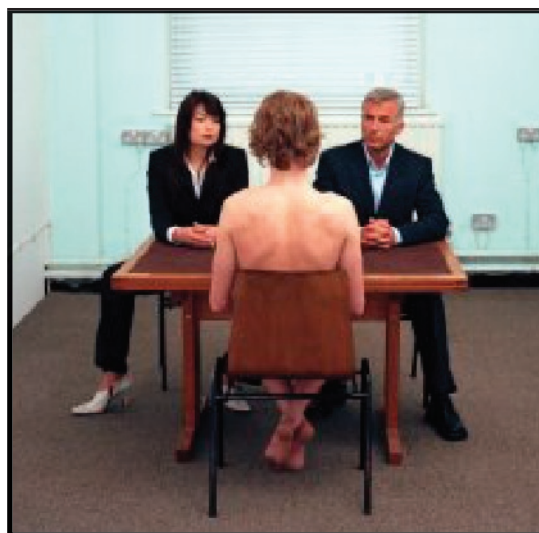
The Supreme Court reversed that decision in *Westfield Ins. Co. v. Galatis*, holding, "absent specific language to the contrary, a policy of insurance that names a corporation as an insured for uninsured or underinsured motorists coverage covers a loss sustained by an employee of the corporation only if the loss occurs within the course and scope of employment." This decision ended much litigation across Ohio's state and federal courts resulting from *Scott-Pontzer*.

Because several large firms had a large amount of resources dedicated to defending these cases, the recent decision forced several of these firms to reduce their

to the OCP's seminars on interviewing, mock interviews and resume reviewing as ways the OCP helps all students equally. The program is designed to be as student-friendly as possible while staying within the requirements of the participating employers.

"Short of interviewing in the applicant's place, there is not a lot more we can do from our end," Geneva said. The individuals who are successful are those who put a lot of time and energy into the job search, said Geneva.

Geneva said students have told her that searching for a job took as much time as taking an extra course and the commitment certainly has not lessened in the tight job market. Despite the tough economic times and the hard work required to get



www.hostilewitness.com

out for public knowledge; it's sort of a trade secret that schools keep close to the vest," said Geneva.

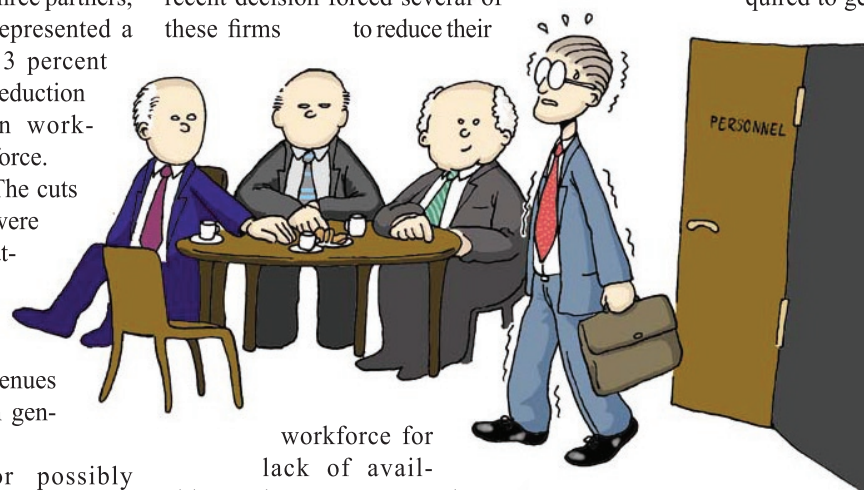
Geneva is quick to point out part of the decrease may be due to a lack of response from the students who received job offers but chose not to fill out the survey.

The firms are holding tight and not expanding their hiring yet, even though the economic indicators are up. Law is one of the last areas to see positive moves, explained Geneva.

"At many of the large law

tributed to weak revenues and the economy in general.

Another factor possibly reducing the number of jobs available to current C-M students is a recent legal decision by the Ohio Supreme Court. On Nov. 5, 2003, the Supreme Court limited the June 1999 *Scott-Pontzer* decision. *Scott-Pontzer* held that injured parties in motor vehicle accidents could sue under uninsured/underinsured motorist coverage under their employer's



workforce for lack of available work. Weston, Hurd, Fallon, Paisley, & Howley L.L.P. recently rescinded an offer for a summer position to Chris Adkins, 2L, specifically citing the *Pontzer* decision.

Geneva acknowledges each year she hears concerns that the FIP is "unfair," but she firmly believes the statistics prove that is not the case. Geneva points

a job, more than 90 percent of the class of 2003 has a job, according to Geneva.

C-M students are able to acquire jobs throughout the nation because of networking, but job offers are not handed out on a silver platter, said Geneva. Just like everything else in law school, hard work is required.

## Be a part of the biggest paper on East 18th Street (south of Superior)■

We may not be as prodigious as the Plain Dealer, but we are the most accessible publication our law students produce.

And recently, the most successful.  
Writers, photographers, illustrators.

### Join us.

Come to our next  
staff meeting,  
Tuesday, April 6  
at 4:15 p.m.

## THE GAVEL

216.687.4533  
GAVEL@LAW.CSUOHIO.EDU  
LB23





# Administration stands idly by

Would you renew your apartment lease if the next year's rent were to increase by almost 100 dollars per month? Most of us might consider such a renewal. However, would you agree to such an increase if, at the same time the increased rent went into effect, the landlord decided to eliminate one of the bedrooms and pair you up with a roommate? Most people would not agree to pay a higher rent for less space.

Recently, a committee of CSU trustees proposed a tuition increase which would increase annual tuition and fees for law students from the current \$11,648 to \$13,052 for the 2004-2005 aca-

demie year, a staggering 12 percent increase. Due to Gov. Bob Taft placing a 9.9 percent limit on undergraduate tuition increases, this 12 percent increase makes up for CSU's inability to raise undergraduate tuition above the 10 percent threshold.

There are several problems with this substantial increase in tuition. First, not many people would have a problem paying a little bit more in tuition if the services offered were also increased. However, at C-M, just the opposite is true. We are paying more, but at the same time, we are receiving less. Library services

have been cut. Food service has been trimmed. Departing faculty members are not being replaced. Our extra dollars must be going someplace else.

Another problem with the substantial increase is the perceived value of our C-M legal education. Not long ago, C-M was substantially less costly than our counterpart on Cleveland's East Side, Case Western Reserve University. Three years of tuition at C-M used to equal one year of tuition at Case.

It was clear to most people that you got a much better value at C-M. Sure, we may have passed the bar at a lower rate and we may have been unable to land as many positions at large firms, either inside the city of Cleveland or outside the city, but we could justify that based upon the tremendous difference in cost. What would you rather have upon graduation, a student loan totaling "only" 35,000 dollars or a student loan totaling almost 75,000 dollars? Many students chose the obvious answer.

However, as C-M's tuition continues to rise, the answer is becoming less clear. As it currently stands, C-M's tuition, even with the proposed 12 percent increase, is still half the tuition of Case. However, if the increases continue at current proportions, this discrepancy will continue to diminish.

In the past, students who had an option of attending Case or C-M often chose the later. In the near future, C-M may be unable to attract these higher caliber students and be unable to persuade them to attend the "school of value," C-M. If the difference in cost is a mere five to ten thousand dollars, Case may transform into the school of value. While C-M students are probably just as prepared and just as qualified as graduates from Case, this in

not the perception from the outside. Case is a top 100 law school. C-M is a bottom tier law school.

Attorneys in charge of hiring at firms simply have more respect for students coming from Case, whether a fair belief or not. So, while it currently may not be best to choose Case over C-M, in the near future, this may be the case. Isn't it worth it to come out with only slightly more debt if it means you have a better chance of both passing the bar and obtaining a high-paying job. A job paying 100,000 dollars per year will make up for that higher debt figure within the first couple of years.

Perhaps more disturbing than the proposed increase itself is the administrations' apathy towards the tuition boost. Before the Board of Trustees Committee meeting, in which the proposed increase was discussed, no C-M administrator informed the C-M student body. These meetings are open to the public and a voice of concern might have been helpful.

While having no representation from the general student body (aside

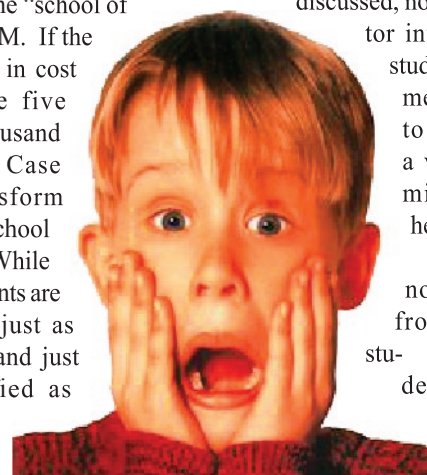
from representatives

from SBA,

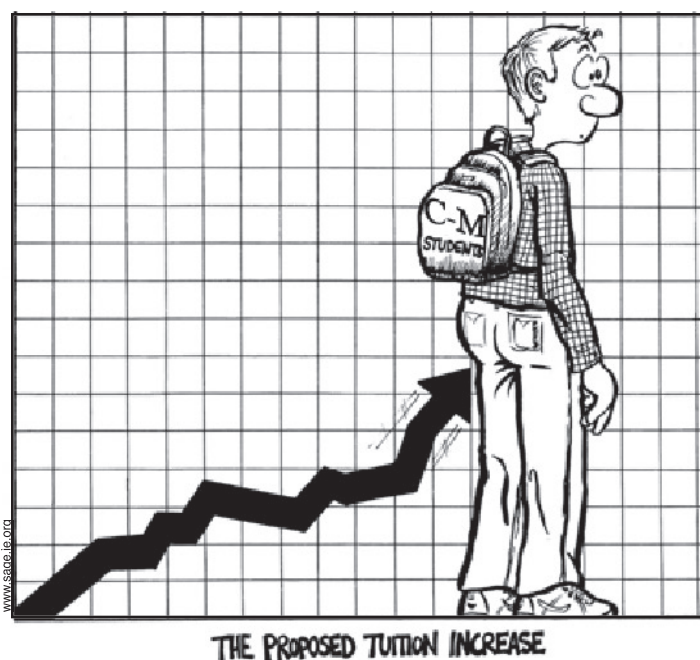
out about the

meeting less than one day before) is reason for concern, perhaps more disappointing is that no C-M administrators were present to take up our cause. Shouldn't someone represent us when this important decision was being discussed?

The various deans should realize that large tuition increases are a concern of most, if not all, C-M students. While they may not be successful in combating such a tuition increase, they should at least attend and participate in the debate. Such participation must be too much to ask.



www.moviegals.com  
who found



## Remembering students first

In a recent email addressed to the C-M student body, a faculty member raised concerns over the selection process of commencement speakers. Central to this concern was the idea that the current process neglects to consider the desires of the students, who should be the sole focus on graduation day. This is, as the email's author suggests, not a novel notion.

This notion should be extended beyond this limited instance of commencement and further aid in what should be a common understanding that the C-M experience is about the students. Students' concerns, even those that don't stand to bolster C-M's outside reputation, are real.

Sometimes as students, we get the feeling that this whole process is not about us, that we are a burden rather than the reason for C-M's existence. In one ear, students hear about the prestigious alumni C-M has "developed" while, in the other ear, we are told "that's your problem not mine." One has to question whether these two images are consistent.

The road from admission to graduation is an unfamiliar one for students. If things work out after all, it's a path we only travel once. The staff, on the other hand, knows the system and all of its components. We are told they are "here to help." Then why lately have students again and again encountered

the perception that they are in a constant state of conflict with the staff?

Why is it not a problem that students were prevented from asking more than one question about a final exam because their professor doesn't get paid like she did when she worked in a big firm?

Why is it ok for an entire staff in one office to tell students they don't have time to answer crucial questions about a student's future while games of solitaire are mockingly glaring on each of their computer terminals?

Has it always been acceptable to tell a student you refuse to write a letter of recommendation for them over the summer because your job does not mandate student interaction during the summer term?

Students come to C-M to learn, among other skills, how to be the best possible advocates on behalf of our clients. We are told we have a duty to pursue our client's cases "zealously" even if we may not necessarily agree with our client's actions. But when the Board of Trustees met last week to consider yet another substantial tuition hike which does not even stand to benefit C-M, who from the administration was there to advocate for us, the students? Who from the administration was there to ensure that we, the students, had zealous representation in

the face of more payouts, which in the past have produced only a reduction in student services? Who from the administration even bothered to tell us the matter was going to be considered? No one. This omission sends the message that no matter how badly we are taken advantage of, they know we still sign the checks because we have to get our degree.

This is not to suggest that this apathy is reflected in all of C-M's professors and staff. To the contrary, there are many more professors and members of the C-M staff who dedicate so much of themselves to ensure that students have the best educational experience possible. Jessica Mathewson, Michaeline Carrig, Dean Gary Williams, Israel Payton, Joan Shirokey and a long list of professors and staff are shining examples on C-M's staff of this selfless effort to ensure each student's success.

Each of these individuals, in addition to so many more, look beyond their own interests to recognize that we, as students, need and depend on them to get through this journey. They recognize that when we ask them to be our advocate or guide we are not trying to be their burden, but that we truly need their help. These individuals are the models that we must hope others will take notice to ensure that students remain the focus of the C-M experience.

### THE GAVEL

CLEVELAND-MARSHALL COLLEGE OF LAW  
CLEVELAND STATE UNIVERSITY  
216.687.4533 TELEPHONE  
216.687.6881 FAX  
GAVEL@LAW.CSUOHIO.EDU



Colin P. Moeller  
**Editor-in-Chief**

Amanda M. Paar  
**Layout Editor**

Jason M. Smith  
**Managing Editor**

**Staff**  
Anonymous 1L  
Stephen Bittence  
Jay Crook  
Eric Doeh  
Josh Dolesh  
Thomas Fistek  
Alex Hastie  
Michael Luby  
James Lucas  
Mark Merims

**Advisor** Thomas Buckley  
**Printer** Gazette Printing  
http://www.law.csuohio.edu/students  
ALL RIGHTS REVERT TO AUTHOR



# Darwin vs. God

Ohio plan ensures students will develop their own informed belief on evolution

By Josh Dolesh

GAVEL COLUMNIST

On March 9, the Ohio State School Board approved a 22 page portion of a 547 page model lesson plan that would make teachers address evidence that calls into question Charles Darwin’s theory of evolution. The model lesson plan is a blueprint of subjects taught in tenth grade biology classes. The name of the newly drafted, 22 page lesson is “Critical Analysis of Evolution.” It sounds rather benign, but the lesson plan has stirred a national debate on creationism, prompting the ACLU to threaten suit against the school board.

Proponents of the lesson plan call it an intelligent design theory, or creation science. This theory explains how gaps in evolution could point to the possibility of a guiding power at work in the creation of our existence. Some people believe that the scientific evidence behind this theory of creation is just as persuasive as any other. Opponents of creation science call its implementation in the Ohio high school curriculum an unconstitutional mix of church and state.

In *Edwards v. Aguillard*, the U.S. Supreme Court struck down as violative of the Establishment Clause, a Louisiana law, that forced all public school teachers to teach scientific creationism in conjunction with any attempt to

teach evolution, similar in substance to the Ohio state school board plan.

The law was unconstitutional, but the Court was careful to maintain that, “teaching a variety of scientific theories about the origins of humankind to schoolchildren might be validly done with the clear secular intent of enhancing the effectiveness of science instruction.”



www.freeinquiry.net(darwinvgod)

Perhaps the Court believed that all politicians are truthful and never have hidden agendas. Every first year law student learns that determining the intent of a legislative body is an exercise in futility because legislative bodies rarely have a unified intent.

With the issue of legislative intent aside, technically, a legislative body could force the teaching of creationism by ensuring that it appears secular and fits the definition of a scientific theory. It appears that the proponents of the Ohio school curriculum closely scrutinized this decision, and they have responded to it by punching the square peg of creationism into the round hole of scientific theory;

or so it would seem to the opponents.

The question of what constitutes an acceptable theory of secular creationism is purely subjective. It is line drawing. When a school board decides what theories to teach, its choice is guided by public acceptance of the theories. A theory by definition is not fact. A theory becomes

persuasive when the people accept it. Therefore, who should decide the issue of what is an acceptable secular theory, an antimajoritarian court or the elected representatives of the state?

If a theory is malleable by its very nature, then the people should shape it, not the Court; especially when the theory at issue is in the murky waters where science and religion converge.

The mere fact that a scientific theory’s impetus is faith-based does not make the theory religious dogma. Since the beginning of time, faith has driven scientific discovery.

Unfortunately, the Court has decided that it will be the final arbiter of what constitutes an acceptable definition of “scientific creationism.” In doing so, it has squelched a debate among scholars that could further our knowledge about the creation of the world.

The whole point of allowing, or even forcing the expression of

contrary viewpoints, is to foster debate that will lead to truth. Sheltering people from ideas for fear that they might make a choice that the minority believes is unwise or deplorable is antithetical to the idea of free speech and the First Amendment.

The new Ohio curriculum is not forcing a restriction of the evolution debate, but rather it is forcing an expansion of it. The Ohio school board has simply limited the discretion of a teacher in choosing how she should approach the subject.

Allowing or even forcing teachers to cover scientific creationism prevents teachers from spewing religious rhetoric. A guideline for teachers outlining how they should approach creationism helps ensure that they are treating the idea in a secular manner, as defined by science and as defined by the people.

The threat of lawsuits and disciplinary action should deter teachers from overstepping the boundaries set out by the legislature and the Establishment Clause.

Hopefully, the Court will decide that there is an acceptable way for legislatures to define creationism as a secular, scientific theory. This way, our children can choose what to believe instead of being told what to believe. This way we will know the truth.

## Open Mike 2L sounds off on recent events

By Michael Luby

GAVEL COLUMNIST

The home stretch is rounding the bend. Spring break is over and the warm weather has been poking its head out. It should be a time of joy, at least for some students. As graduation nears, however, there appears to be controversy on the home front. A few people seem to be a little upset about the commencement speaker.

What’s the fuss about? Probably the fact that C-M is dominated by blue-collar, hard-working, Cleveland-raised students and Pat McCartan, the scheduled speaker for the 2004 graduation ceremony and former Managing Partner of Jones Day, is Ivy League bred.

I’m sure he’s a great guy, but he might not have much in common with our graduates. It’s a little late now, but maybe next year, the students will have a say. Why not start this month.

Up first, Jon Stewart, and yes, he is first for a reason. A graduate of William & Mary, *The Daily Show* host, is a regular distraction from the left or the right. Rather than emphasizing politics to one side, he has been quoted as wanting to stop the political repetition of various trends which have too often forced ordinary citizens to believe them. The fake news show Stewart manages appeals to audiences directly in the age majority at C-M. Why Jon? Why not? He has no limits. Rather than focusing on the legal powerhouses of Cleveland, he’d give us something applicable to the real world.

Next, Colman McCarthy. McCarthy, a *Washington Post* journalist, teaches at Georgetown University Law Center, and runs the Center for Teaching Peace in Washington D.C. He’s a lifelong activist for social justice, not seen in such effectiveness since Dr. Martin Luther King, Jr. Having studied under Colman, I might be partial, but he’s a lot more likely to say something controversial than say how long it should take to make partner. Why Colman? He spends every year going to over 20 colleges and universities giving speeches and talking about the importance of peace. He might even teach us a thing or two.

Need another possible candidate. What about Mike White? Yes, I said Mike White. All he did was take Cleveland and put it on the map, in a good way. The *Christian Science Monitor* quoted White as saying about Cleveland, “We’re a scrappier city ... [W]e don’t know the meaning of failure.” That alone should make him a quality candidate for C-M’s 2005 commencement speaker.

Just a few suggestions. And yes, none of them have law degrees. That’s the point. A J.D. doesn’t make you a better speaker. If anything it just makes you more jaded.

## “Traveling Studier” takes on Panama Beach

The following is the fifth in a six-part series following a first-year C-M student from orientation to spring exams.

As first-year law students, we have all been studying and working hard for the past two months. We deserved a break, and spring break came just in time. I, like many other students, decided to take advantage of this week-long break and planned a relaxing trip away from the cold and snow of Cleveland.

So, let’s review what was in my suitcase as I prepared to leave for break: suntan lotion, check...sandals, check...torts book, check...wait a second...what has happened to spring break? The American youth phenomenon, formally known as spring break, has been reduced to a one-week reprieve from classes. It was not without guilt that I bought plane tickets to go out to the West Coast, but I decided to be a rebel. The only day I’ll be in town during spring break, the law library was closed and the jet lag was killing me (or was it a hangover?).

Did anyone else have a test on the first day after we returned from the beach or wherever your vacation destination was? I

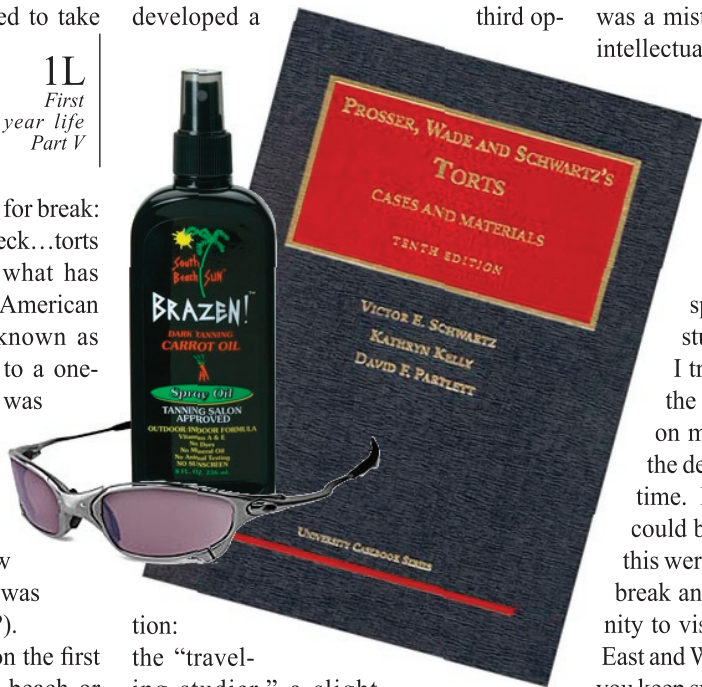
certainly hope not. This is certainly the first time in my life I’ve heard of a test scheduled for the first day back from vacation. So, as 1L’s, we had a choice: did we read and study everyday over the so-called “break” or did we live it up one last time like a 19-year old in Panama Beach? Well, I developed a

third op-

options.

During my long flights in the coach section, I attempted to read contracts. During my layovers, I tried to study the rules of discovery for civil procedure. However, I drew the line and did not study at certain locations. I refused to bring my torts book to the beach. Maybe this was a mistake. I might have appeared more intellectual and therefore more attractive to the opposite sex. Also, the earning potential of a future attorney couldn’t have hurt.

The point is, this is supposed to be a week of freedom and youth. However, law school has ruined yet another timeless American pastime, spring break. Even as the “traveling studier,” I fell even further behind. As I tried to read a case on the plane and the 50 year-old man next to me slept on my shoulder like a baby, I regretted the decision to go to law school one more time. But, this is the life we chose, and it could be worse. We could be working. If this were the case, we would have no spring break and wouldn’t even have the opportunity to visit the fine bars and beaches of the East and West Coast. So, I’ll keep reading and you keep sun bathing and together maybe we’ll make it to our second year...maybe.



tion: the “traveling studier,” a slight combination of the above two





# WE WANT YOU!



- Be a **DVD BAR REVIEW** campus rep:
- ✓ Earn a **FREE** bar review course
  - ✓ Get more **Incentives** than ever
  - ✓ Invest only a few hours a week

- Visit our Information Table at your school
- Phone 216-791-6451 or toll-free 1-866-BAR-PREP
- Apply online at [www.DVDBarReview.com](http://www.DVDBarReview.com)
- Or, complete the form below

**APPLY NOW!**

Send this completed form along with your resume to DVD Bar Review of Ohio, 11000 Cedar Avenue, Suite #461, Cleveland, OH 44106, or, fax to 1-216-791-6453 Attn: Recruitment Officer

Full Name (please print) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Daytime Phone \_\_\_\_\_ Evening Phone \_\_\_\_\_

E-mail Address \_\_\_\_\_

What law school are you attending? \_\_\_\_\_

When do you plan to take the Ohio State Bar Exam: ☐ February 200\_\_\_\_ ☐ July 200\_\_\_\_

Please list below any student activities with which you are involved and any offices held. (Please attach your resume, if available.)

Are you currently a Campus Representative for any other bar review course? Yes ☐ No ☐

If yes, which one? \_\_\_\_\_

**THANK YOU FOR YOUR APPLICATION!**

*We Turn Law Students Into Lawyers!™*